IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1179 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KT VORA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 1179 of 1999

MR IS SUPEHIA for Petitioner No. 1

MR N.D.GOHIL, AGP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 10/09/2003

ORAL JUDGEMENT

Heard learned advocate Mr. I.S.Supehia for the petitioner and learned AGP Mr. N.D.Gohil appearing on behalf of the respondent.

2. In the present case the petitioner has challenged the chargesheet dated 15.9.1998 served by the respondent on the ground that criminal prosecution is pending in respect of the same charge and therefore respondent is not entitled to hold departmental inquiry during the pendency of criminal prosecution against the petitioner.

3. The affidavit-in-reply has been filed by the respondent. The facts are not in much dispute between the parties about criminal prosecution and charge sheet received by the petitioner. This Court has issued rule on 6.8.1999 with a direction to the respondent that the disciplinary proceedings initiated against the petitioner vide charge sheet dated 29.9.1998 shall remained stayed till final decision in this case.

4. Learned advocate Mr. I.S.Supehia and learned AGP Mr. Gohil are not aware about the outcome of the criminal prosecution. However, in view of the interim relief which has been granted by this Court, if it is directed to the respondent not to hold departmental inquiry till the final outcome of the criminal prosecution and after conclusion of the criminal prosecution it is open for the respondent to hold departmental inquiry against the petitioner subject to his right to raise the legal objection as available under the law. If this order is passed it will meet the ends of justice between the parties. Therefore, in view of this fact, it is directed to the respondent not to proceed with the departmental inquiry in pursuance to the charge sheet dated 29.9.1998 till the final outcome in criminal prosecution and after the outcome of the criminal prosecution, it is open for the respondent to hold departmental inquiry against the petitioner subject to his legal right to raise objection. This order has been passed by this Court while keeping in mind the fact that the petitioner has already retired from service on 30.11.1997.

5. In view of the above observations and directions rule is made absolute accordingly. No order as to costs.

(H.K.Rathod,J)

Jayanti*